

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Petition for Rulemaking of Fibertech Networks, LLC

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) RM - 11303
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OPPOSITION TO MOTION FOR EXTENSION OF TIME

Fibertech Networks, LLC (“Fibertech”) hereby opposes the Motion for Extension of Time to File Comments filed by the United Telecom Council (“UTC”) on January 4, 2006, which sought a thirty-day extension for filing comments in the above-captioned proceeding. Because the Commission’s current thirty-day comment period provides for adequate time to prepare and file submissions, UTC’s motion should be denied.

On December 7, 2005, Fibertech filed a petition for rulemaking, requesting that the Commission adopt a set of “best practices” to govern competitor access to poles and conduit. On December 14, 2005, the Commission promptly issued a public notice which established January 13, 2006 as the deadline for comments and January 31, 2006 as the deadline for reply comments.¹ On January 4, 2006, UTC filed the instant request to double the amount of time for filing comments.

It is the express and well-established policy of the Commission “that extensions of time shall not be routinely granted.”² UTC has failed to provide good cause for

¹ *Pleading Cycle Established for Petition for Rulemaking of Fibertech Networks, LLC*, Public Notice, DA 05-3182 (rel. Dec. 14, 2005).

² 47 C.F.R. § 1.46(a). *See, e.g., In the Matter of Unbundled Access to Network Elements*, Order, 19 FCC Rcd 19965, 19966 (WCB 2004) (denying request for extension of time); *In the Matter of Carrier Current Systems*, Order Denying Extension of Time, 19 FCC Rcd 7882, 7883 (OET 2004).

departing from that policy. UTC claims that extra time is needed due to the technical nature of the proposals and the holidays arising during the comment periods. But Fibertech's proposals, which are straightforward, have been on file with the Commission since early December. Although the comment period spanned the year-end holidays, interested parties had over a week before and nearly two weeks after those holidays in which to prepare and file comments.³ Moreover, the Commission was no doubt aware of the holiday calendar when it established the current schedule and, in promptly establishing the current pleading cycle, correctly recognized that it was important to move this proceeding forward without unnecessary delay.

The Commission's consideration of the "best practice" rules proposed by Fibertech is necessary to ensure non-discriminatory access to poles and conduit – access that is both required by statute and essential to fostering the on-going construction of competitive last-mile facilities. Accordingly, it would not be in the public interest to delay this entire proceeding by several weeks. Should the Commission believe that more time is required for comment on Fibertech's petition, Fibertech respectfully suggests that any extension of time be limited to a week at the most. UTC has offered no justification for doubling the current thirty-day period and a week should be more than sufficient to make up any lost time due to the holidays.

³ Contrary to UTC's contention, the Commission's recent grant of an extension in the Section 304 proceeding is not similar to the instant extension request. *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, CS Docket No. 97-80 (rel. Dec. 23, 2005). In that proceeding, the Commission had established a schedule for parties to submit comments in response to a report before the report was filed. *Id.* After the report was filed and reviewed, however, the Commission granted a brief extension of time, finding that an industry-wide annual exhibition and week-long meetings combined with the holidays would make it difficult for interested parties to meet the pre-existing deadline. *Id.*

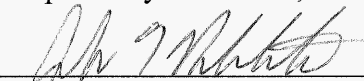
Finally, although UTC claims that no party will be prejudiced by its requested extension, UTC's requested schedule extends the time for parties filing comments without giving more time to parties filing reply comments. But, if the Commission agrees with UTC that the petition raises complex issues that require additional time to analyze, this will be equally true for the reply comments. Thus, a matter of fairness, if the Commission adds time to the period for filing comments, an equivalent amount of time should be added to the period for filing reply comments. For example, if the current thirty-day comment period is extended by a week such that the deadline for comments would be January 20, 2006, the current eighteen-day period between comments and reply comments should likewise be extended by a week such that the corresponding deadline for reply comments would be February 14, 2006.

Conclusion

For the forgoing reasons, the Commission should reject UTC's request for an extension of time and proceed with the schedule originally established for this proceeding. Alternatively, the Commission should extend for at most one week both the period of time for filing comments and the period of time for filing reply comments.

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Respectfully submitted,



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January 9, 2006.

CERTIFICATE OF SERVICE

I, John T. Nakahata, hereby certify that on this 9th day of January, 2006, copies of the foregoing Opposition to Motion for Extension of Time were served via electronic filing and/or first class United States Mail, postage prepaid on the following:

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